

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY EIGHTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 5860 of 2005

Between:

M/s. Gati Limited, 1-7-293, M.G. Road, Secunderabad - 500 003.
Rep. by its Authorised Signatory Sri Satyajit Mukjherjee.

..... PETITIONER

AND

- 1 State of Andhra Pradesh, Rep. by the Divisional Forest Officer,
Hitchoda Check Post, District, Adilabad.
- 2 Forest Range Officer, Hichoda Check post, District Adilabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or Direction in the nature of Mandamus or otherwise declaring the action of the respondents in stopping, seizing and detaining the petitioner's vehicle No. UP 70W 9330 at 22.30 Hours on 17-3-2005 at Hichoda Check Post, Adilabad District is wholly illegal, unauthorized and ultra vires the powers of the respondents under the A.P. Forest Act and consequently direct the respondents to release the consignments of the Petitioner covered by various trip challans of the Vehicle No. UP 70W 9330 forthwith.

Counsel for the Petitioner:MR.VILAS V.AFZULPURKAR

Counsel for the Respondents: GP FOR FORESTS

The Court made the following :

ORDER:

This Writ Petition is filed seeking a Writ of Mandamus declaring the action of the respondents in stopping, seizing and detaining the vehicle of the petitioner bearing No.UP 70W 9330 on 17.03.2005 as arbitrary and illegal.

The petitioner claims to be a carrier and during the course of business, he carries goods of various parties from one destination to another. While so, the vehicle bearing No.UP 70W 9330 belonging to one Sri Sushil Yadav was taken on service contract and the same was being used for transportation of the goods by the petitioner. In the usual course of business, the petitioner has loaded various consignments comprising of computer processing units, watches, sanitary items, automobile parts, electronic parts, machine tools, sarees, computer monitors, raw metal pieces and stationery items etc., under three separate challans dated 15.3.2005 and 17.03.2005 respectively. On 17.03.2005, when the vehicle was travelling from Allahabad to Bangalore, it was stopped enroute and was checked by the respondents and their subordinates at Hichoda Check Post near Adilabad and the same was detained by the respondents together with all the goods therein and alleging that the vehicle was caught with sandalwood. The petitioner states that immediately thereafter a representation was made before the 2nd respondent stating that the allegation that sandal wood was being carried in the vehicle is incorrect and that the vehicle was only loaded with goods pertaining to various parties and that the said goods are neither contraband nor prohibited and therefore, the same may be

released so that the goods will be delivered to the respective parties. The trip challans, which are accompanying the vehicle were also produced before the 2nd respondent. However, the respondents failed to respond and the goods in question are not released. Hence, this writ petition seeking the above relief.

I have heard the learned counsel for the petitioner and the learned Government Pleader for the respondents.

The specific case of the petitioner is that it has not violated any of the provisions of the Forest Act including Section 29 and therefore, the seizure of the petitioner's legitimate goods duly supported by the trip challans is arbitrary and illegal.

The learned counsel for the petitioner submits that even assuming that the allegation of transportation of the sandal wood in the vehicle in question is true, it is always open to the respondents to conduct necessary enquiry and in case any forest offence is made out to pass appropriate orders in accordance with the provisions of the A.P.Forest Act. However, the learned counsel submits that since the consignment in question is not a forest produce, the seizure of the same is not justified and unless the same is released immediately, the petitioner stands to suffer irretrievable injury since the goods are required to be delivered to the respective parties.

The learned Government Pleader under instructions states that the respondents have no objection so far as the release of the goods other than the forest produce is concerned.

Having regard to the facts and circumstances of the case, I deem it appropriate to dispose of the writ petition leaving it open to the respondents to conduct necessary enquiry and to take appropriate steps under the provisions of the A.P.Forest Act with regard to the allegation that the vehicle in question was caught with sandal wood. However, in view of the specific plea of the petitioner that the cargo being transported in the vehicle in question is not a forest produce, there shall be a direction to the respondents to release the consignments of the petitioner covered by the trip challans of the vehicle No.UP 70W 9330, after due verification, forthwith.

The writ petition is accordingly disposed of. No costs.

Dt: 28.03.2005 G.ROHINI, J

Note: Office to furnish C.C by tomorrow

(b.o)

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To

- 1 The Divisional Forest Officer, State of Andhra Pradesh,
Hitchoda Check Post, District, Adilabad.
- 2 The Forest Range Officer, Hichoda Check post, District Adilabad.
3. Two CCs to the Government Pleader for Forest, High Court of A.P.,
Hyderabad (OUT)
4. Two CD copies